



COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE




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FROM: Lydia Bodin 
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SUBJECT: Collection of Victim Restitution from Individuals in Custody or Under
Community Supervision Due to Public Safety Realignment
(Item No. S-1 – November 12, 2014 Agenda)

On November 12, 2014, your Board directed the Countywide Criminal Justice Coordination Committee (CCJCC) to establish a taskforce to develop recommended local processes for collecting restitution from offenders in county jail pursuant to a Penal Code section 1170 (h) sentence. PC 1170 (h), enacted through Public Safety Realignment legislation, establishes local custody and/or community supervision of specified felony offenders in lieu of state prison.

The taskforce first convened in December 2014 and has met multiple times since then to develop restitution collection recommendations. Chaired by the District Attorney's Office, the taskforce includes representatives from the departments of Sheriff, Probation, Auditor-Controller, Treasurer and Tax Collector (TTC), Chief Executive Office, Public Defender, Alternate Public Defender, and County Counsel.

This report provides background on the restitution collection issues highlighted by your Board's action, outlines initial concepts and recommendations developed by the taskforce, and identifies remaining areas to address prior to initiating local collection processes. The taskforce identified significant issues which will need to be addressed prior to implementing collections, such as required information technology enhancements, additional staffing needs, and the limited ability to fund this program on the 10% allowable administrative authorized by statute.

The report also addresses and makes initial recommendations for collecting restitution from individuals on Post-Release Community Supervision (PRCS) following their release from state prison and on mandatory supervision following incarceration in county jail on a PC 1170 (h) "split sentence." The development of a system that integrates collection from individuals regardless of their custody or supervision status is critical to ensuring effective and fair collection practices.

Restitution Background and Public Safety Realignment Impact

The California Constitution guarantees victims of crime the right to restitution under the Victims' Bill of Rights Act. There are two types of restitution obligations that may be imposed on a convicted offender:

- **Restitution Fines** – Restitution fines are a criminal offender's *debt to society*. State law requires that judges order offenders (adult or juvenile) to pay a restitution fine, set at the time of sentencing. Collected restitution fines are deposited into the State's Restitution Fund, which helps victims of violent crimes pay for related expenses. The imposition and collection of fines is critical for supporting past, present and future victims.
- **Restitution Orders** – Restitution orders reflect an offender's *debt to his or her victim*. State law requires that judges order offenders to pay restitution to their victims whenever an economic loss is suffered as a result of the crime. An individual's payment on restitution orders goes directly to his or her impacted crime victim. The taskforce's work and this report focus on the collection on such restitution orders.

Existing Restitution Collection Practices

Los Angeles County currently collects restitution from individuals under regular felony probation supervision. Following a comprehensive case review, Probation staff enters restitution amounts ordered by the Court in the department's Adult Probation System (APS), which interfaces with the TTC's Collections and Accounts Receivables System (CARS) to create a restitution record. CARS then generates billing notices to felony probationers with outstanding orders. TTC posts payments received to the designated account. TTC is responsible for the local distribution of restitution payments collected to the identified victim(s).

At the state level, the California Department of Corrections and Rehabilitation (CDCR) collects restitution from state prisoners by deducting 50 percent of all wage earnings and new deposits in a prison inmate's trust account if he or she has an outstanding restitution order. In addition, CDCR's Office of Victim's Services refers cases to the Franchise Tax Board to place liens on tax returns of individuals who have outstanding orders at the time of their release from prison.

Public Safety Realignment Impact

By shifting certain custody and supervision responsibilities from the State to counties, Public Safety Realignment created restitution collection gaps. Realignment legislation did not provide counties the statutory authority to collect from individuals sentenced pursuant to Penal Code 1170 (h) – including individuals both in custody and on mandatory supervision following a split sentence – or individuals released from prison on PRCS. These populations would have been subject to restitution collection efforts by the state prior to realignment implementation.

Sponsored by the Los Angeles County District Attorney's Office (LADA), legislative amendments to PC 2085.5 in 2012 and the addition of PC 2085.6 in 2015 addressed these statutory gaps and authorize your Board to designate collection agencies for these populations. The taskforce's initial recommendations for a local restitution collection process given this statutory authorization are discussed below.

Collections on Penal Code 1170 (h) Sentenced Cases and Including Subsequent Mandatory Supervision

PC 2085.5 authorizes the Board to designate an agency to collect restitution from inmates sentenced to county jail under realignment. The taskforce recommends that your Board designate the Sheriff's Department as the agency for the collection of victim restitution from the *in-custody* population sentenced per PC 1170 (h). *The Sheriff's Department may not be designated for this role without the Sheriff's agreement. Sheriff Jim McDonnell is supportive of this role for the department, contingent upon the availability of resources to manage the additional function.*

Furthermore, the taskforce recommends that your Board designate the Probation Department as the collection agency for individuals who are serving their *mandatory supervision period* in the community pursuant to a PC 1170 (h) split sentence – sentences that include both a custody and a supervision component.

The integration of existing stakeholder departmental systems will operate to capture restitution orders and fines, account for funds collection, and will facilitate distribution of funds to crime victims. The taskforce is committed to working toward an integrated automated solution. Existing departmental internal data systems for the District Attorney, the Sheriff's Department, Probation, and the Treasurer-Tax Collector (TTC) are being evaluated for systems interface that will allow for shared information among stakeholder departments. This interface will create an accounting of collected direct restitution and fines and will further allow for subsequent distribution to victims of crime. While the details of a full plan are still being developed, the taskforce proposes the following framework:

1. *Restitution order information will be transmitted to the Sheriff's Department by the District Attorney's Restitution Enhancement Program.* Existing case management and data systems do not currently support the automated transmission of restitution order information to the Sheriff's Department to initiate collection efforts. With the understanding that appropriate staffing levels will be allocated, LADA has committed to capturing and transmitting restitution order and fine information on PC 1170 (h) cases to the appropriate entities through CARS for a period of up to five years. Interfaces and modifications will have to be made to the existing Prosecutorial Information Management System (PIMS) used by District Attorney paralegal staff who will initiate the record. LADA staff will also capture and transmit victim contact information that will support restitution distribution to victims by the Treasurer-Tax Collector.
2. *The Sheriff's Department will collect 50 percent of each deposit into an inmate's trust account when there is a restitution order outstanding.* The Jailhouse Information Management System (JIMS) will be utilized to record collection from inmate wage and trust accounts. Inmates in county jail may establish trust accounts, through which family, friends, and others can deposit funds for commissary purchases in jail. PC 2085.5 authorizes the collection of up to 50 percent of each deposit into an inmate's trust account to support payment on outstanding restitution orders. The statute also allows for a 10

percent administrative fee to be imposed on actual amounts collected to support collections processes.

3. *The Sheriff's Department will transfer collected funds to the TTC for appropriate distribution.* The TTC will provide the Sheriff's Department access to CARS through an interface with JIMS to allow for the centralization of debtor account information, restitution victim data, collections, and distribution. Postings to JIMS transmitted to CARS will update the balances of the restitution order initiated in the system by LADA.
4. *The Probation Department will proceed with collection efforts on individuals who received a split sentence under PC 1170 (h) and who have been released from jail to their mandatory supervision period.* To collect from split-sentenced individuals in the community, Probation will utilize the same processes currently in place for felony probationer collection efforts. Because CARS will already have the restitution record initiated by LADA through PIMS and the in-custody collection history from the Sheriff's Department through JIMS, collections on split sentence cases will be coordinated beginning with custody through supervision by the Probation Department.
5. *The TTC will distribute the funds to victims following collection from inmate wage and trust accounts and from individuals on community supervision.* TTC will utilize the same processes currently in place to distribute restitution to victims.

Collections from Individuals on Post-Release Community Supervision (PRCS) Cases

PC 2085.6 authorizes the Board to designate an agency to collect on restitution orders from individuals on PRCS. The taskforce recommends that your Board designate this responsibility to the Probation Department.

1. *Probation will identify those individuals released from state prison on PRCS who have outstanding restitution orders and will subsequently collect from these individuals to obtain the balance of the remaining restitution.* In response to Probation's request, the CDCR has agreed to modify the PRCS pre-release packets sent to the County to include restitution orders and fines information when the inmate is released and whether the judgment of restitution and the fine amount was satisfied in state prison. In addition, the CDCR has agreed to abstain from referring subsequent collection efforts to the Franchise Tax Board (FTB) from a released inmate who comes under county supervision when the county has an operating collection mechanism pursuant to Penal Code section 2085.6
2. *Probation will review County records to determine if any restitution amounts were previously collected.* While local restitution collection processes seek to collect as much court-ordered restitution for victims as possible, Probation will review all collections history to guard against over-collection. Previous collections – at both the state and county level – will be posted to CARS to ensure an accurate accounting of restitution ordered and payments made.

3. *The Probation Department will proceed with collection efforts on individuals on PRCS.* If CARS does not have a restitution record already created for a given case, Probation will initiate the record. Consistent with current practices for restitution collection from felony probationers, CARS will generate and send billing notices and track payments received.
4. *The TTC will distribute the funds to victims following collection from inmate wage and trust accounts and from individuals on PRCS.* TTC will utilize the same processes currently in place to distribute restitution to victims.

Issues for Continued Discussion

While foundational components and recommendations have been developed, the taskforce does not recommend proceeding with collections at this time, as several issues still need to be resolved to ensure the County implements a restitution collection system that is effective, well-coordinated, and fair to all parties.

Information Technology Systems Enhancements – The taskforce has planned on the expanded use of the CARS system as a centralized countywide restitution collection system. Modifications to CARS, JIMS, and PIMS to meet that expanded functionality – as well as interfaces between it and applicable systems in the District Attorney’s Office and Sheriff’s Department – are priorities for pushing these collection efforts forward. The taskforce has formed a systems workgroup to explore these technical needs and resources that may be requested to implement them.

Staffing Models and Costs – Taskforce agencies are currently identifying costs to implement and maintain systems modifications and build interfaces that will facilitate the automated sharing of information that is necessary to support CARS as a centralized collections system. The taskforce is still identifying modifications and enhancements that will be needed for CARS, the District Attorney’s PIMS, and the Sheriff’s JIMS.

In addition to data systems improvement costs, taskforce agencies continue to review the proposed processes to identify changes to staffing models or resource allocations needed to support ongoing collections. For example, the initiation of the original record of restitution orders and fines by the District Attorney will require an increased number of paralegals. Currently, as submitted in the Budget Request for Fiscal Year 2015/2016, the District Attorney is seeking increased paralegal staffing through the creation of five new paralegal positions that will handle this new work and will increase restitution orders on behalf of victims in all criminal cases.

All taskforce agencies will experience an increased workload impact and will require additional resources to support restitution collection efforts. As the taskforce continues to quantify impacts and resource needs, the following will inform its discussions:

- **Two Month Study on Potential Collections from County Jail Inmates Sentenced Pursuant to 1170 (h)** – Data on the number of county jail inmates sentenced pursuant to PC 1170 (h) who have restitution obligations suggest that the proposed in-custody

collections processes are feasible. A study by the District Attorney's Office reviewed two groups of cases sentenced pursuant to PC 1170 (h). The first group included 249 cases sentenced in November 2014 and determined that 26 included orders of restitution and another 20 had a future court date set where restitution was anticipated. To begin the process of estimating potential restitution collection and workload impacts, the Sheriff's Department cross-referenced the 26 cases and matched them with 20 inmates with restitution orders in their custody with restitution orders ranging between \$365 to \$25,603. Of the 20 inmates, only 11 inmates received deposits into their inmate trust accounts over a five month period. A total of 66 deposits were made between the 20 inmates, totaling \$4,602 in deposits. If this program were in place, the Sheriff's Department could have collected \$2,301 to pay down the combined \$75,708 in victim restitution orders owed by this group.

The second group reviewed by the District Attorney's Office included 303 cases sentenced under PC 1170 (h), 39 cases of which included orders of restitution and another 32 cases which had a future court date set where restitution was anticipated. The Sheriff's Department cross-referenced the 39 cases and matched them with 35 inmates in their custody with restitution orders ranging between \$20 to \$745,029. Of the 35 inmates, 27 received one or more deposits into their inmate trust accounts, with a total of 137 deposits totaling \$9,217 processed over a five month period. If this program were in place, the Sheriff's Department could have collected \$4,609 to pay down the combined \$993,037 in victim restitution orders owed by this second group.

Given these two snapshots and the average length of time in custody on such cases, it is estimated that between 300 and 500 county jail inmates at any one time may be subject to collections from their inmate trust accounts.

- **10 Percent Administrative Fee** – The law provides for the imposition of a 10% administrative fee for the collection of restitution from individuals in custody. The 10% fee amount is based upon the amount of restitution collected on behalf of the victim. For collection efforts made while an individual is out of custody, actual costs incurred up to a maximum of 10 percent may be collected to support collection efforts. In order to effect collection, there must be a coordinated effort among stakeholders. An equitable agreement among the stakeholders to appropriately divide this fee is still under discussion and development.

It is difficult to project what the actual collection workload will be, however, because collection activity is determined by whether an individual actually has funds to collect. For the same reason, it is difficult to predict how much supporting revenue can be collected from the 10 percent fee. The taskforce is continuing to explore these matters so that the best estimated impact on workload and resource needs can be generated. However, initially it is clear that the 10% administrative fee will be insufficient to support cost associated with modifying IT structures and to support a coordinated effort of stakeholder departments.

Other Impacts – The taskforce fully supports the implementation of new collection processes but also recognizes that other areas of the justice system may be impacted by their introduction. Identifying potential impacts so that planning and mitigation measures can be implemented is an ongoing effort of the taskforce.

For example, the Sheriff's Inmate Welfare Fund (IWF) is a source of funds that is used for the benefit, education, and welfare of inmates confined within the jail. The fund – which supports a variety of in-custody programs and services – is partially funded by revenue generated by commissary sales in jail. While the percentage of inmates who would be subject to restitution collection is small, fewer funds in inmate accounts because of restitution efforts may translate into less revenue generated for the IWF due to reduced sales of commissary items.

Summary

Restitution is a right granted to crime victims by the California Constitution and is critical to efforts that attempt to make victims whole. In addition, public confidence in the justice system is enhanced when offenders are held accountable for their actions in a fair and evenhanded manner. Restitution is a key component of that accountability.

To that end, the taskforce continues its work on developing an effective and sustainable restitution collection and distribution system in Los Angeles County and will report back to your Board with a fully developed plan for approval prior to implementation. At this time, the taskforce makes the following recommendations:

Recommendation 1: The taskforce recommends with the Sheriff's concurrence that the Board of Supervisors designate the Los Angeles County Sheriff's Department as the agency authorized to collect victim restitution from inmates housed in county jail pursuant to a PC 1170 (h) sentence.

Recommendation 2: The taskforce recommends that the Sheriff's Department collect the maximum 50% allowed from deposits made into an inmate trust account when the inmate has an outstanding restitution order pursuant to a PC 1170 (h) sentence. The taskforce also recommends that the Sheriff's Department be authorized to impose an additional 10% of any amounts collected to support collection processes.

Recommendation 3: The taskforce recommends that the Board of Supervisors designate the Probation Department as the agency authorized to collect restitution from both the PRCS population and offenders on mandatory supervision following their release from county jail on a PC 1170 (h) split sentence. The taskforce also recommends that the Probation Department be authorized to impose an additional 10% of any amounts collected to support collection processes.

Recommendation 4: The taskforce recommends that TTC's collection role be expanded to support collection of restitution from all realigned populations and that CARS, or its successor system, be utilized as the centralized county restitution system.

Recommendation 5: The taskforce recommends that the Board direct CCJCC and the taskforce to report back in 90 days with the status of the restitution collection plan discussed in this report, including systems issues and resource needs.

Recommendation 6: The taskforce recommends that the Board of Supervisors designate the Los Angeles District Attorney's Office as the agency authorized to obtain court ordered fines and restitution on behalf of crime victims and to utilize and expand PIMS to initiate a digital record that is subsequently transmitted to the Sheriff's Department and the Probation Department through CARS in a centralized county restitution system in order to effect collection from criminal defendants.

If you have any questions, please contact Lydia Bodin of the District Attorney's Office at (323) 357-5334 or Mark Delgado, Executive Director of CCJCC at (213) 974-8399.

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